IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 4520 of 2005

GRANT MEDICAL FOUNDATION ... Petitioner
vs.
PUNE MUNICIPAL CORPORATION AND ANR. ..... Respondents

Mr. S. R. Nargolkar for Petitioner
Mr. Pethe i/b. R. G. Ketkar for Respondent nos. 1 & 2.

CORAM: **F. I. REBELLO & ROSHAN DALVI JJ.**
Date: 24/11/2005

P.C.

Rule. Heard forthwith.

Admittedly the Petitioners have constructed contrary to the Municipal bye-laws, rules and regulations by consuming additional FSI of 0.5. The contention of the Petitioner is that .5 can be consumed with the approval of the State Government. In the instant case the Corporation itself has forwarded the proposal to the State Government. Whatever be the position, no citizen, including the Petitioner, could have constructed without the State Government sanctioning additional FSI and the Corporation sanctioning plans for the additional FSI. It has not been done. In other-words the Petitioners have acted high-handedly and without authority of law. The Respondent Corporation

issued notice to the Petitioners to which the Petitioners responded by letter dated 24th June 2005 seeking some time and without waiting for that filed the present petition. Whatever be the position this petition can be disposed of by following directions:

1. Petitioners to file their reply to the show cause notice on or before 9th December 2005. On such reply being filed Corporation to act according to law.

2. If the Respondent Corporation decides to take any action pursuant to the notice the same shall be not acted upon for a period of 3 months to enable the Petitioners to move the State Government, if in law they are so entitled to.

Rule made absolute accordingly with no order as to costs.

(F. I. REBELLO J.)

(ROSHAN DALVI J.)